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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MIKE YELLEN,

2:10-CV-1976 JCM (PAL)

**Plaintiff,**

V.

BOYD GAMING,

**Defendant.**

## ORDER

14 Presently before the court is plaintiff Mike Yellen's motion to reconsider. (Doc. #35).  
15 Defendants Boyd Gaming Corporation, Coast Hotels and Casinos, Inc. filed an opposition (doc.  
16 #36). Defendants National Amateur Bowlers, Inc. and National Amateur Bowlers Inc. San Diego  
17 also submitted an opposition. (Doc #37). Plaintiff has failed to file a reply.

“Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.” *School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993); *see* FED R. CIV P. 59(e); *see also* FED R. CIV P. 60(b).

Plaintiff asserts that the court's interpretation of the phrase "under color of law" is contrary to its meaning. (Doc. #35, pg.4). Specifically, plaintiff argues that state law permitted the defendants' actions and are thus attributable to the authority of the state. The court disagrees. Nevada Revised Statute 463.0129(3)(a) merely regulates gaming establishments and does not confer the power of the state onto the defendants. Also, nothing cited by the plaintiff establishes that private parties, on private property, taking private action, can be deemed state actors.

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1 Therefore, plaintiff has failed to provide the court with new law, new facts, or new evidence  
2 indicating that any of the circumstances warranting reconsideration as enumerated by the Ninth  
3 Circuit are present here.

4 || Accordingly,

5 IT IS HEREBY ORDERED ADJUDGED AND DECREED that the plaintiff's motion to  
6 reconsider the ruling by the district judge (doc. #35) be, and the same hereby is, DENIED.

7 DATED July 29, 2011.

UNITED STATES DISTRICT JUDGE